IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 1929 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LEGAL HEIRS OF DECD.BAVKUBHAI GHOSABHAI SHEKHVA

Versus

DADUBHAI ABDULBHAI SIPAI

Appearance:

MR RR TRIVEDI for Petitioner No. 1

MR BHAVESH P TRIVEDI for Petitioner No. 1-1/3-1/3

***** for Respondent No. 1,4-5

SERVED BY AFFIX.-(R) for Respondent No. 2

DELETED for Respondent No. 3

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 20/02/2003

ORAL JUDGEMENT

1. Learned Advocate Mr. Bhavesh P. Trivedi was heard

on behalf of learned Advocate Mr. R.R. Trivedi for the petitioners.

2. This application is filed by the applicant under Section 24 of the Civil Procedure Code for the transfer of Motor Accident Claim Petition No. 213/1995 from Motor Accident Claims Tribunal (Aux.), Ahmedabad (Rural) to Motor Accident Claims Tribunal (Auxiliary), Gondal.

3. As per the Board endorsement, the respondents No. 1, 2, 4 and 5 are served. They have not appeared. Respondent No.3, who was driver of the vehicle, has been deleted by the petitioners from the parties.

4. The petitioners have contended in the petition that the petitioners are the resident of village Derdi, Taluka Jetpur, District Rajkot. The Motor Accident Claim Petition came to be filed for the death of Bavubhai Ghosabhai Shekhva, of whom the present petitioners are the legal heirs. It is submitted that to attend the Motor Accident Claim Petition No.213/1995 pending before the Motor Accident Claims Tribunal (Auxiliary), Ahmedabad (Rural), they have to travel for about 300 kms. They are poor applicants and it is very expensive to come to Ahmedabad to maintain the Motor Accident Claim Petition.

5. As per Section 24 of the Civil Procedure Code, all the parties to main proceedings are required to be issued with the notice in case of transfer of proceedings from one court to another court, but having regard to the circumstances of the applicants, as narrated in the application as well as submitted by the learned Advocate for the petitioners, it appears that, this is a fit case, wherein though respondent No.3 has not been served and deleted, suo motu powers of this Court to transfer the claim petition be exercised. Further, the record reveals that the original respondent No.3 - opponent No.3 herein could not be served because he has expired.

6. In this view of the matter, this Petition is required to be allowed and Motor Accident Claim Petition No.213/1995 pending before the Motor Accident Claims Tribunal (Aux.) Ahmedabad (Rural) is directed to be transferred to Motor Accident Claims Tribunal (Aux.), Gondal. Motor Accident Claims Tribunal (Aux.), Ahmedabad (Rural) is directed to transmit the record and proceedings of Motor Accident Claim Petition No. 213/95 to Motor Accident Claims Tribunal (Aux) Gondal forthwith. Motor Accident Claims Tribunal (Aux.), Gondal is directed that on so receiving the record and proceedings of the Motor Accident Claim Petition No.213/95, the Motor

Accident Claims Tribunal (Aux), Gondal, shall register and proceed with the said Motor Accident Claim Petition and dispose of the same according to law.

7. Rule is made absolute. No costs.

(J.R. Vora, J.)

p.n.nair